IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

APPEAL FROM ORDER NO.327 OF 2007

Shri Ramdas Maharaj Ramasahay ...Appellant

Versus

Municipal Corporation of
Greater Mumbai ...Respondent

Shri Chaurasia for the Appellant.
Ms Geeta Joglekar for the Respondent.

CORAM : ABHAY S.OKA, J.
DATED : APRIL 21, 2007.

P.C.:

1. Heard Advocate for the Appellant and Advocate for the Respondent. By the order impugned in this Appeal From Order passed on 12th February, 2007, ad-interim relief in favour of the Appellant has been denied. Notice of Motion is still pending. The suit structure is already demolished. The prayers made in the Notice of Motion except prayer clause (e) are of drastic nature. In my view, the learned trial Judge was justified in declining to grant ad-interim relief of a drastic nature without giving an opportunity to the Respondents to file a reply to the notice of motion.

2. In so far as prayer (e) of the notice of motion is concerned, the learned Advocate for the Respondent states that the Respondent is ready and willing to give the articles in possession of the Respondent to the Appellant.

She stated that the Appellant has not approached the Respondent. Only relief which can be granted at this stage is that the Respondent will be directed to return the articles found in the suit structure which are in the custody of the Respondent-Corporation.

3. Hence, I pass the following order:

(i) The impugned order is confirmed with the modification that within a period of two weeks from today, the Respondent-Corporation will return the articles which were found in the demolished structure and which are in the custody of the Respondent. The Appellant will approach the concerned Ward Officer within a period of two weeks from today for taking back the articles.

(ii) Hearing of the Notice of Motion No.630 of 2007 is expedited and same shall be decided as far as possible before the end of June 2007.

(iii) All contentions of the parties on merits are kept open.

(iv) Parties to act upon an authenticated copy of this order.

JUDGE